Paul J. Sholtz
650 Castro Street, #120-485
Mountain View, California 94041

James Ware
U.S. District Court Judge
United States District Court for the Northern District of California
280 South First Street, San Jose, California 95113

Judge Ware:

Whereas we here in the United States follow a system based upon the English common law, wherein – as per the principal of *stare decisis et non quieta movere* – decisions rendered by the courts can and do have the effect of creating both law itself as well as binding legal precedent, it is of the foremost importance that I clarify for you those laws which have shaped my thoughts, desires and actions as of late, and to which I have dutifully rendered obedience in regards to the instant matter currently before consideration by the court.

My first and foremost responsibility has been to identify the quarter from which threats – both real, actual and realized, as well as potential and impending – to my safety, liberty and freedom have originated. The answer to this inquiry has been clearly stated for us by the court as follows:

> "Where would we really find the principal danger to civil liberty in a republic? Not in the governors as governors, not in the governed as governed, but in the governed unequipped to function as governors. The chief enemies of republican freedom are mental sloth, conformity, bigotry, superstition, credulity, monopoly in the market of ideas, and utter, benighted ignorance. Relying as it does on the consent of the governed, representative government cannot succeed unless the community receives enough information to grasp public issues and make sensible decisions."
> - Feldman v. United States, 322 U.S. 487, 501, 64 S. Ct. 1082, 1088, 88 L. ed. 1408

And so it is that the greatest of threats originate, as perhaps they always do, from within: indeed it is *my own* mental sloth, conformity, bigotry, superstition, credulity and utter, benighted ignorance – as well as, perhaps, that of those *entrusted with public office* to administer the laws of the republic in which I find domicile – that is the source and origin of any transgressions of law for which I may or may not be responsible.

Thankfully, the remedy for any such potential transgressions has likewise been clearly stated for us by the court in *Feldman v. United States*, and that is that I – as an individual – must stand ready, competent and fully equipped to function not only as one governed, but (much more importantly) as a governor myself. Even if I myself never seek, desire nor hold any office of the public trust, I myself must have sufficient access to all necessary information that would permit and enable me to ascertain whether or not, and to what extent, my good servants holding such public offices are abiding by the laws that I, as a denizen of the republic, have set forth for them to uphold, administer and obey.

It is worth repeating that *Feldman v. United States* renders this responsibility an obligation in law for me to follow and render obedience to.

It is, therefore, in this spirit that I have undertaken to study and understand the nature of the accusations which have been leveled against me by my good servants at the IRS, a study which has led me into the very bowels and depths of the private credit system run and administered by the twelve, central Federal Reserve banks. To the extent that this study has taken me longer than anticipated or desired, I sincerely apologize. There is much in the current incarnation of the Internal Revenue Code that is (unnecessarily) complex and (deliberately) confusing. The same can be said of the manner in which fractional reserve, promissory-note-backed banking is practiced by the central and commercial banks. I am reminded, in these matters, of the wisdom of James Madison:

> "The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant change that no man, who knows what the law is today, can guess what it will tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?"
> -- James Madison, Federalist #62

Indeed, there is much in the current tax code, of which the average "taxpayer"[1] should be cognizant, and yet of which, in due course of his forced State indoctrination in the public schools, media and religious institutions, he is wholly unaware. Some examples, which briefly come to mind, include:

- The Federal Reserve Act is private law - *Lewis v. United States, 680 F. 2d, 1239 (1982)*
- Title 26 is non-positive, private law - *Diversified Metal Products, Inc. v. T-Bow Company Trust, Internal Revenue Service and Steve Morgan, 1996 U.S. Dist,; 96-2 U.S. Tax Cas (CCH) P50,437; 78 A.F.T.R.2d(RIA) 5830*
- The IRS Form 1040 is a negotiable instrument in the form of a revivable installment note.
- Installments are due annually on any State-created franchise, the payment upon which, in the form of an excise, is directly proportional to the extent to which the franchise is exercised - *UCA 59-13-1*
- IRS has no statutory authority to convert a Social Security Number (hereinafter, SSN) into a "Taxpayer Identification Number." By the authority of 20 CFR Sec 422.104, SSNs can only be issued to either statutory "U.S. citizens" under 8 UCS Sec 1401 or "permanent residents." Taxpayer Identification Numbers, on the other hand, can only be issued to aliens under the authority of 26 USC Sec 6109. "Aliens" and "citizens" are not interchangeable groups and all "taxpayers" under IRC Subtitle A are "aliens."
- IRS has no statutory authority to convert employment withholding taxes under IRC Subtitle C into "income taxes" under IRC Subtitle A.

[1] i.e., a taxpayer being a beneficiary of a State-created franchise, such as Social Security, and one who thereby enters the stream of public commerce as described in the Commerce Clause of the U.S. Constitution at Article I, Section 8, and hence enters into a limited liability partnership between himself, his commercial interests and those of the State.

- Neither the IRS nor the Social Security Administration may lawfully operate outside the federal zone.
  - 4 USC Sec 72 limits all "public offices" to the District of Columbia
  - 26 USC Sec 7601 limits IRS enforcement to internal revenue districts
- Congress may not establish a "trade or business" in a state and proceed to tax it – *License Tax Cases, 72 U.S. 462, 18 L. Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)*
- According to the Supreme Court, it is an abuse of the government's taxing power to involve itself with "wealth transfer" – *Loan Association v. Topeka, 20 Wall. 655 (1874), U.S. v. Butler, 297 U.S. 1 (!936), Sinking Fund Cases, 99 U.S. 700 (1878).*
- At present, over 56% of federal revenues are used for wealth transfer, according to the Treasury Financial Management Service Website.
- Congress (illegally?) put the federal judiciary under the control of the IRS in 1932 – *O'Malley v. Woodrough (1938).*
- Federal Reserve Notes, which are stock certificates in the Federal Reserve, are a form of elastic currency, in contradistinction to public U.S. money which is inelastic in nature.
- That which makes the Federal Reserve an instrumentality of the United States government is the fact that its stock certificates are allowed to continually depreciate (i.e., inflation).
- Federal Reserve Notes may be used for the purpose of making advances to the Federal Reserve banks through their agents and for no other purpose - *USC 12, Sec 411*
- Federal Reserve Notes are redeemable in lawful public money - *USC 12, Sec 411*
- The Federal Reserve is organized as an eleemosynary trust, making of it a religious organization and institution in contradistinction to my personal Christian religious beliefs to which have previously born witness before this court, and which are a matter of public record.

That information such as this - and much, much more which could be cited *ad infinitum* - and which is essential to an even basic understanding of how tax laws work in the United States, is not a matter of public, common knowledge can only be attributed to a pattern of systemic, if constructive, collusion and fraud on the part of my public servants in government and banking. Private individuals operate under the presumption that they may contract with one another, and with other private organizations, as free agents. There is no good faith expectation on the part of the individual that when he opens a bank account, he is entering into a guardian-ward relationship with the federal government; and yet, this is precisely what happens by the natural operation of law. There is no good faith expectation on the part of the individual that through the use of Federal Reserve notes – which bear the deceptive color and yet never the actual substance of money – that he forfeiting his common law right to pay debts at law, and must instead discharge said debt at less than full consideration; and yet again, this is precisely what happens.

Cause of Action: Indeed, the presumption upon which Sirrah Thomas Moore is basing his action is erroneous and based upon endorsements of private credit from the Federal Reserve that have never been made in good faith. To presume the endorsement of fractional lending practiced outside the scope of lawful money is unlawful and such presumption is defeated by law herein, *nunc pro tunc*.

Such are the generalities.

In terms of specifics, despite the unlawful nature of Sirrah Moore's action, the requested paperwork was – to the best of my ability and understanding of how to complete it – filled out and submitted to Sirrah Craig Harbidge by the original deadline, February 19, 2008. Moreover, I have since initiated contact directly with Sirrah Harbidge and am working dutifully with him to provide him with all the information he needs to close out the relevant accounts he has on record.

There is, in other words, no controversy here.

There is, rather, merely my obedience to *Feldman v. United States* in making sure that I understand the relevant laws, rules, regulations and codes concerning this matter as well as can and should be expected for a denizen of the republic. I am, for instance, currently at this moment working to determine precisely what constitutes and represents "income" as per the Internal Revenue Code (which conveniently neglects to actually define the word), to better calculate what, if and how the information Sirrah Harbidge desires is to be completed. This is, and I am sure you are well acquainted with this matter, no simple matter.

The reference Sirrah Thomas Moore makes, in his bill of particulars, to my communication with my good servant Sirrah Tracy Wong is off point and out of context. The communication I had initiated with my good servant Sirrah Wong was in reference to his atrocious parking skills, to the fact that he demonstrated for me – in plain sight – that he is incapable of safely operating a motor vehicle on the public roadways, and to my desire of alerting Sirrah Wong's superiors at IRS as to this alarming situation so that proper disciplinary action could be pursued against Sirrah Wong; including, potentially, the suspension of his license to drive. It would please me greatly to know whether such action has been pursued at IRS, although, indeed, this matter is off point and out of context with regards to the instant matter at hand.

In closing, an additional point I desire to raise is that Sirrah Harbidge has never – despite repeated demands on my behalf – disclosed or provided to me an accounting and validation of the debt and liabilities that he alleged against my person. You will find enclosed Exhibit B (Demand for Lawful Verification of Debt), which I have tendered to Sirrah Harbidge on repeated occasions, and Exhibit C (letter addressed to Sirrah Harbidge on my behalf, citing points of law as to why his computerized paper printout does not represent a valid account of debt).

It would please me greatly to see to it that Sirrah Harbidge finally fills out this demand for verification of debt, as he is required to by law.

In addition, you are to find enclosed Exhibit D, proof of my FOIA inquiries into whether or not I owe any debt to the IRS, and the negative results I had obtained as a result of these inquiries.

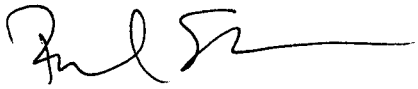
It is also worth citing here the Saving to Suitors clause of the Judiciary Act of 1789:

> CHAP XX, SEC 9: That the district courts shall have, exclusively of the courts of the several States, [...] exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation or trade of the United States, where the seizures are made, on waters which are navigable from the sea by vessels of ten or more tons burthen, within their respective districts as well as upon the high seas; saving to suitors, in all cases, the right of a common law remedy, where the common law is competent to give it;

This document is submitted to you in good conscience to demonstrate that I am cooperating in good faith with Sirrah Harbidge to the best of my ability, in obedience to the law as given in *Feldman v. United States.* Had Congress and the IRS not made such a mess of the Law, I would not need to spend so much time right now cleaning up after them. It is also well for you to know that I am in the process of rescinding the Social Security number that was assigned to my person before I had reached the age of competence and consent. I can see no tangible financial or personal benefit to continue participating in the Communist welfare/wealth redistribution scheme (see Plank #8 of Marx' Communist Manifesto) nor do I have the slightest desire to ever draw any "benefit" from participation in such a tontine insurance scam.

Given in Good Conscience.

Without Prejudice, All Rights Reserved,



Paul J. Sholtz
April 25, 2008, Year of Our Lord

[04/11/2008 16:57]

EXHIBIT A

ACCRUAL COMPUTATION DATE: 04/11/2008

TIN: 377-76-2915 NAME: PAUL J SHOLTZ

MFT	TAXPD	RESTRICT	MOD BAL	ACCR INT	ACCR FTP	MOD TOTAL
55	200103	F	15184.72	15419.77	0.00	30604.49
55	200106	F	84564.55	31416.55	0.00	115981.10
55	200109	F	59537.37	22075.67	0.00	81613.04
TOTALS:			159286.64	68911.99	0.00	228198.63

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DEMAND FOR VERIFIED EVIDENCE OF LAWFUL FEDERAL ASSESSMENT

The validity of the assessment documented on this form is hereby formally challenged. This form constitutes a formal legal demand to the agency who issued the tax collection notice appearing in Section 1 below. It is submitted under the authority of the following code sections:

1. The Fair Debt Collection Practices Act (FDCPA) codified in 15 U.S.C., Chapter 41, Subchapter V, and which the IRS was made subject to under the IRS Restructuring and Reform Act of 1998, Section 3466, 112 Stat. 768.
2. The Privacy Act, 5 USC §552a.
3. The Freedom of Information Act, 5 USC §552.
4. 26 USC §6103 and 26 USC §6110.

Under the provisions of 5 U.S.C. §552(a)(6)(a)(i), you have no more than 20 days to respond with ALL of the assessment documentation required. Failure to timely respond shall constitute a permanent estoppel by default of all collection and enforcement activity. The FDCPA requires in 15 U.S.C. §1692g(a), among other things, that the debt collector has an obligation to validate any imputed debts. Tax debts constitute "debts" for the purposes of this provision, because the U.S. Supreme Court said so in Milwaukee v. White, 296 U.S. 268 (1935) (". . .still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of **debt or indebitatus assumpsit.**"). Because the above documents are expected to be used in a court proceeding, please certify all documents, or have them certified as true and correct, with Form 2866, Certificate of Official Record, or in the event requested documents do not exist, certify that they don't with Form 3050, Certificate of Lack of Records, as required by IRM 11.3.6. Certification may be requested by the public using IRS Form 4338-A. In accordance with IRM 11.3.6.2, any member of the public may request certification of ANY document requested, including records generated by the service or submitted by him/her to the service.

SECTION 1: COLLECTION NOTICE INFORMATION

(Collection notice recipient fills out this section)

1. Notice Number	—	**2. Notice Date**	4/11/2008
3. Originating agency	IRS	**4. Originating employee**	CRAIG HARRIDGE
5. Originating address	55 SOUTH MARKET SAN JOSE, CA 95113	**6. Affected tax year(s)**	2001

SECTION 2: LEGAL "PERSON" AGAINST WHOM TAX OR PENALTY IS ALLEGEDLY ASSESSED

(Collection notice recipient fills out this section)

7. Name	PAUL SHULTZ		
8. Notice Recipient Name	" "		
9. Identifying Number on Notice	—		
10. Current address	650 CASTRO ST., #120-455		
11. City	MOUNTAIN VIEW	**12. State**	CALIFORNIA
13. Zip	94041	**14. Country**	USA
15. Previous Address	500 W. MIDDLEFIELD, #99		
16. City	MOUNTAIN VIEW	**17. State**	CALIFORNIA
18. Zip	94043	**19. Country**	USA

20. CITIZENSHIP: (check all that apply)

- ☒ "national" but not "citizen" under federal law pursuant to 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1452. Born in state of the Union and am "nonresident alien" under 26 U.S.C. 7701(b)(1)(B) but NOT an "alien" under 26 U.S.C. §7701(b)(1)(A) or "resident". "Stateless Person" as per Newman-Green v. Alfonso Larrain, 490 U.S. 826 (1989). *Constitutional* diversity of citizenship pursuant to U.S. Const. Art. III. Section 2, but NOT *statutory* diversity pursuant o 28 U.S.C. §1332. Rebut the following if you disagree within 30 days or you stipulate it as truth. http://famguardian.org/Subjects/LawAndGovt/Citizenship/WhyANational.pdf
- ☐ "U.S. citizen" under 8 U.S.C. §1401. Born in District of Columbia or federal territory or possession.
- ☐ "U.S. national" under 8 U.S.C. §1408. Born in American Samoa or Swain's Island
- ☐ Foreign National. Country:_____. Nonresident alien under 26 U.S.C. §7701(b)(1)(B)

21. DOMICILE (check only one):

- ☐ Kingdom of Heaven. I have a religious objection to having an earthly domicile within any existing, man-made government. I am a "transient foreigner" but not an "inhabitant" with respect to the man-made government having jurisdiction in the place where I temporarily live. The Bible says in Psalms 89:11-13, Isaiah 45:12, Deut. 10:14 that the Earth was created and is owned exclusively by God and NOT any man or government of men. It also says in Psalms 47:7 that God is the King of all the Earth. Therefore no one but God's Kingdom can have domiciliaries because presence on the territory of the Sovereign is a prerequisite to all declarations of domicile and allegiance. See and rebut the following within 30 days if you disagree or forever be estopped from later challenging it.: http://sedm.org/Forms/MemLaw/Domicile.pdf
- ☐ No place on earth. I choose not to have an earthly domicile and exercise my First Amendment Constitutional right to disassociate with all earthly governments. I am a "transient foreigner" but not an "inhabitant" of the place where I live. See and rebut the following within 30 days if you disagree or forever be estopped from later challenging it: http://sedm.org/Forms/MemLaw/Domicile.pdf
- ☐ "United States" (District of Columbia, see 26 U.S.C. §7701(a)(9) and (a)(10))
- ☐ Federal areas within state:_____(state name)
- ☒ Nonfederal areas within state: CALIFORNIA (state name)
- ☐ Federal territory or possession. Territory/possession name:_____

22. Recipient signature:	I certify under penalty of perjury under the laws of my state in accordance with 28 USC 1746(1) that the facts provided in this section are true, correct, and complete. I also certify that if the assessment is procedurally correct and executed completely consistent with the IRM and the Internal Revenue Code, then I will pay the amounts owed. Signature without prejudice	23. Date signed:	4/25/08

COPYRIGHT NOTICE:

The contents of this correspondence are copyrighted and a trade secret. It may not be shared with third parties or entered into any kind of electronic information system or used for any kind of enforcement activity. The fee for violating the copyright is $100,000 per incident. This letter and all attached documents have been made part of the agency administrative record and will be used for evidence in administrative and judicial proceedings at law, or equity regarding this American National **All of these documents must be RECORDED and maintained in Claimant's Administrative PAPER, but not electronic File.**

SECTION 3: ALLEGED TAX LIABILITY

(Revenue collection agency fills out everything in this section. Please fill in white, unshaded fields completely and accurately)

24. Collection Agency Name		29. EXCISE TAXABLE ACTIVITY: (check all that apply)	
25. Affected tax year(s)		☐	"Trade or business" under 26 USC §7701(a)(26)
26. Situs for tax		☐	"Foreign income" under 26 USC §7001
		☐	Importation of goods under Article 1, Section 8, Clause 3 of the Constitution
		☐	Corporate activity. Please identify: Place of incorporation:_____ Date of incorporation:_____ Incorporation document #:_____
27. Alleged liability amount	$	☐	Other (please specify):_____

30. CLASSIFICATION OF ENTITY AGAINST WHOM ALLEGED LIABILITY IS BEING ENFORCED

(According to collection agency)

Check	Entity type	Explanation	Code section where defined (please specify if blank)
☐	Man or woman	Sui juris endowed with full Constitutional rights unipaired by any franchises or contracts	None
☐	Natural person	Biological person representing a public office	None
☐	Individual	Legal person who is "public official" and agent or employee of the federal government engaged in a "public office" defined in 26 U.S.C. §7701(a)(26)	26 USC §7701(a)(1) 26 CFR 1.1441-1(c)(3) 5 U.S.C. §552a(a)(2)
☐	Exempt organization	Limited to organizations domiciled within the District of Columbia or a federal territory or possession	26 USC §501
☐	Estate of domestic deceased natural person	Limited to those whose property is in the District of Columbia or a federal territory or possession	26 USC §7701(a)(1)
☐	Estate of foreign deceased natural person	Limited to those whose property exists in states of the Union and or abroad	26 USC §7701(a)(5) 26 USC §7701(a)(31)
☐	Domestic trust	Trust recorded within the District of Columbia or a federal territory or possession	26 USC §7701(a)(4)
☐	Domestic partnership	Partnership engaged in a "trade or business" within the District of Columbia or a federal territory or possession	26 USC §7701(a)(2)
☐	Foreign partnership (within state and outside of exclusive federal jurisdiction)	Partnership doing business in a state of the Union or abroad	26 USC §7701(a)(5)
☐	Federally-chartered corporation	Corporation formed under the laws of the District of Columbia	26 USC §7701(a)(3) 26 USC §7701(a)(5)
☐	State-chartered corporation (foreign corporation)	Corporation formed under the laws of a state of the Union	
☐	Other (please specify in column to right)		

31. System of records from which entity classification derived		32. Name and details of report from which entity classification obtained	
33. Forms submitted by alleged "taxpayer" and year which indicated entity classification derived			

34. TYPE OF TAX SOUGHT TO BE COLLECTED (check only one)

Check	Type of tax	Code section imposing tax (Please specify if blank)	Internal Revenue Code Subtitle
☐	State income tax		Not applicable
☐	Federal income tax	26 USC §1	A
☐	Federal employment withholding tax	26 USC §3401	A
☐	Federal estate and gift tax	26 USC §2001	A
☐	Federal wagering tax	26 USC §4401(a)	A
☐	Federal inheritance tax	26 USC §2001	B
☐	Social security	26 USC §3101(a)	C
☐	Medicare	26 USC §3101(b)	C
☐	Federal Income Compensation Act (FICA)	26 USC §3101(a)	C
☐	Imported petroleum	26 USC §4081	D
☐	Distilled spirits	26 USC §5001	D
☐	Tobacco	26 USC §5701	D
☐	Penalty	26 USC §§6671-6716	F

LEGAL AUTHORITY FOR IMPUTED LIABILITY
(Complete details to right of information required)

36. Statute imposing tax	26 USC §_____ State statute:_____
37. Statute establishing "liability"	26 USC §_____ State statute:_____
38. Implementing regulation authorizing assessment	26 CFR §_____ State reg:_____
39. Implementing regulations authorizing levy (not NOTICE of levy, but court-issued levy)	26 CFR §_____ State reg:_____
40. Implementing regulation authorizing lien (not NOTICE of lien, but court-issued lien)	26 CFR §_____ State reg:_____

35. EVIDENCE OF RECEIPT OF "GROSS INCOME":
(Check all that apply and please include all evidence of income in your possession)

- ☐ IRS W-2 (please provide copy with response). See the following: http://sedm.org/Forms/Tax/FormW2/CorrectingIRSFormW2.htm
- ☐ IRS Form 1042-S (Nonresident aliens)
- ☐ IRS Form 1098. See the following: http://sedm.org/Forms/Tax/Form1098/CorrectingIRSForm1098.htm
- ☐ IRS 1099-R (please provide copy with response). See the following: http://sedm.org/Forms/Tax/Form1099/CorrectingIRSForm1099.htm
- ☐ IRS 1099-DIV (please provide copy with response). See the following: http://sedm.org/Forms/Tax/Form1099/CorrectingIRSForm1099.htm
- ☐ IRS 1099-MISC (please provide copy with response). See the following: http://sedm.org/Forms/Tax/Form1099/CorrectingIRSForm1099.htm
- ☐ State form. Form number(s): _____
  (please provide copy of all reports with response)

41. FEDERAL ASSESSMENT AUTHORITY
(Check all that apply)

- ☐ 26 USC §6020(a)
- ☐ 26 USC §6020(b)
- ☐ IRM 5.1.11.6.10
- ☐ IRS Delegation Order 182
- ☐ Other (please specify):_____

42. EVIDENCE OF LAWFUL ASSESSMENT
(Check all that apply, and please include certified copy of all assessment documents signed under penalty of perjury as required by 26 USC §6065)

- ☐ Form 1040 Substitute For Return (SFR) signed under penalty of perjury in accordance with 26 USC §6065
- ☐ IRS Form 23C Assessment Certificate
- ☐ IRS RACS0006 Report
- ☐ IRS Form 4340 Assessment Certificate
- ☐ IRS Form 13496 6020(b) Certification
- ☐ IRS Form 4549: Income Tax Examination Changes
- ☐ IRS Form 4700 Examination Work Papers
- ☐ IRS Form 5344 Examination Closing Papers
- ☐ IRS Form 5546 Examination Return Charge-Out
- ☐ IRS Form 5564 Notice of Deficiency Waiver
- ☐ Other (please specify):_____

ASSESSMENT OFFICER DETAILS

43. Name	
44. Badge number	
45. Work address (where legal service of process may be made if assessment was illegal)	
46. Phone number	
47. Email address	

ASSESSABLE PENALTIES	
48. If Entity type in block 30 is natural person and penalties were assessed, please explain why you think the target of collection satisfies the definition of "person" in 26 USC §6671(b), which is defined as an "officer of a corporation"	
49. If Entity type in block 30 is natural person and penalties were assessed, please explain what authorizes you to violate the constitutional prohibition against "Bills of Attainder" in Article 1, Section 10, which are penalties without a court trial	
VALIDITY OF ASSESSMENT DOCUMENTS	
50. If none of the assessment documents were signed under penalty of perjury as required under 26 USC §6065, please explain why you think this is a lawful assessment:	

SECTION 4: SIGNATURE AND IDENTIFY OF GOVERNMENT REPRESENTATIVE COMPLETING SECTION 3 OF THIS FORM

Government Representative responding to this request for information must fill in this section and sign under penalty of perjury. Failure to complete and sign this section shall constitute an admission that this is an illegal collection action for which you agree to be held personally and individually liable. If you respond with psuedonym information, be advised that the information about me in your records is also psuedonym information and will be verified with real information AFTER you verify your information. If you don't provide information in this section, then neither will I provide anything other than unreliable pseudonym information such as that appearing on your collection notice. In a government all of whose powers are delegated by the people, if you can lawfully use pseudonym information without adverse repurcussions, then so can I. Any other approach constitutes a violation of equal protection of the law and confers a title of nobility upon the government.

> *"Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face." [Justice Brandeis, Olmstead v. United States, 277 U.S. 438, 485. (1928)]*

51. Name of person completing form			
52. Signature of person Completing	I certify under penalty of perjury under 28 USC §1746(2) as required under 26 USC §6065 that: 1. The facts provided by me in section 3 of this form are true, correct, and complete to the best of my personal knowledge, and completely consistent with the records maintained by the agency that I work for. 2. I have included certified copies of all of the available documents relating to the assessment of the taxes referenced in the notice referred to in this document. 3. My identity appearing here is my FULL LEGAL BIRTHNAME, the address provided is the physical address where I work and may be served with legal process. 4. I am not using a pseudonym such as that authorized by IRM 1.2.4 or IRS Restructuring and Reform Act or 1998, Section 3706, 112 Stat 778. 5. I have provided a photocopy of my state issued driver's license and passport as verification of my identity and NOT my agency issued ID, which usually uses pseudonyms. None of the information appearing in the photocopy is redacted or removed because I am following the law and do not need to shield my identity or evade liability for any unlawful action of mine. _____ _____ Signature Date		
53. Badge number		**54. Phone number:**	
55. Mail address of person completing form		**56. Email address:**	
57. Supervisor Name (print legibly)			
58. Supervisor badge number		**58. Supervisor phone number**	
59. Supervisor mailing address		**60. Supervisor email address**	

61. ENCLOSURES
(Included with agency response)

NOTE: All seven pages of this form must be included in the agency response and the response MUST be signed under penalty of perjury, just as the forms we sent you are (equal protection). DO NOT use the word "frivolous" in any part of your response without providing statute and implementing regulation and Supreme Court cite (and not lower) to back up each claim. We ARE NOT interested in your opinion, but only relevant law and facts. Any other approach is frivolous. Also, in accordance with IRM 4.10.7.2.9.8, you MAY NOT cite any court ruling below the Supreme Court in your response. That means you may not cite the Tax Court (an Article 1 Legislative appeal board, not a constitutional court), or the circuit or district courts. We are *not interested* in irrelevant case law from courts that have no jurisdiction over any states of the Union under Subtitle A of the Internal Revenue Code. Here is what the Supreme Court said on this subject, keeping in mind that the Internal Revenue Code qualifies as "legislation".

> *"It is no longer open to question that* ***the general [federal] government [including its agents, the IRS]****, unlike the states, Hammer v. Dagenhart, 247 U.S. 251, 275 , 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724,* ***possesses no inherent power in respect to the internal affairs of the states, and emphatically not with regard to legislation****." [Carter v. Carter Coal Co., 298 U.S. 238 (1936)]*

Any attempt to violate the above requirements in your response shall constitute an admission that your assessment was NOT lawful and that you are trying to cover it up with irrelevant propaganda instead of sticking to the facts and the law.

Check	Enclosure description	Mandatory/optional
☐	All evidence of receipt of "gross income" from item 35 above	Mandatory
☐	All assessment documents from item 42 above	Mandatory
☐	1. Individual Master File MCC Specific, Treasury/IRS System of Records 24.030; 2. "TXMOD" report, using command code "CC". See IRS Manual 6209 (1998), p. 13-59 and IRM 3.13.222.13.8 for command code "CC" information.	Mandatory
☐	Enclosure letter	Optional
☐	Rebuttal to IRS Deposition Questions at: http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm	Optional
☐	IRS "The Truth About Frivolous Tax Arguments". DO NOT send, unless you have a rebuttal to the rebutted version below: http://famguardian.org/PublishedAuthors/Govt/IRS/friv_tax_rebuts.pdf	Optional

63. REFERENCES:

Assessments: http://famguardian.org/TaxFreedom/CitesByTopic/assessment.htm	**Family Guardian-Taxes page:** http://famguardian.org/Subjects/Taxes/taxes.htm
Master File Decoding: http://famguardian.org/Tools/MFDecoder/MFDecoder.htm	**Liberty University:** http://sedm.org/LibertyU/LibertyU.htm
Substitute for Returns (SFRs): http://famguardian.org/TaxFreedom/CitesByTopic/SubsForRetum.htm	**Great IRS Hoax book:** http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm

SECTION 5: POINTS AND AUTHORITIES UPON THE POWER OF FEDERAL TAX ASSESSMENT

"Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them [non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws." [Economy Plumbing & Heating v. U.S., 470 F2d, (1972)]

Requirement description	Code Section(s)	Regulation(s)	Other
JURISDICTION			
A person must be "subject to" the code and a "taxpayer" before an assessment can be made against them. Otherwise, they are "foreign" with respect to the code and a "nontaxpayer". See Long v. Rasmussen, 281 F. 236 (1922); Economy Plumbing & Heating v. U.S., 470 F2d, (1972)	26 USC §1313(b) 26 USC §7701(14)		
The Internal Revenue Code Subtitle A does not have jurisdiction within states of the Union upon anyone but federal "employees" situated on federal property.	26 USC §7701(a)(9) 26 USC §7701(a)(10) 26 USC 3121(e)	26 CFR §31.3121(e)-1	*Carter v. Carter Coal Co.*, 398 U.S. 238 (1936);
DUE PROCESS			
Under our system of jurisprudence, a person is presumed to be innocent until proven guilty. This means they are presumed to be a "nontaxpayer" not subject to the Internal Revenue Code until the government proves them to be a "taxpayer" subject to the I.R.C.			Constitution Amendments 4 through 6
The burden of proof for all disputed matters rests with the Secretary, as the moving party for all those who are "nontaxpayers". The burden rests with the "taxpayer" for all those who are "taxpayers"	5 USC 556(d) 26 USC 7491		
Presumptions not supported by admissible evidence violate due process and in fact, are the OPPOSITE of it. All evidence based on presumption is inadmissible under the Hearsay Rule			Black's Law Dictionary, Sixth, "due process" Fed.Rule.Ev. 802 Fifth Amendment
All evidence upon which an assessment is based must be signed under penalty of perjury and be based on personal knowledge, or else violation of due process occurs. No "presumptions" can be made.	26 USC §6065		
All assessments executed by the Secretary shall be signed under penalties of perjury, the same way as returns filed by the "taxpayer"	26 USC §6065		
Any evidence upon which to base an assessment that was knowingly provided under duress is inadmissible and all assessment based on such evidence are invalid			Am.Jur.2d 663: Duress
The rule of statutory interpretation called "*Expressio unius est exclusio alterius*" states that everything not explicitly spelled out in a law, may be excluded by implication. This implies that the definitions of words used in a statute MAY NOT "presume" the common definition or an "assumed" definition *in addition to* what is spelled out in the statute.	26 USC §6065		Black's Law Dictionary, Sixth Edition, p. 581
ASSESSMENT PROCEDURE			
All assessments must be signed under penalty of perjury as required by 26 USC §6065. That section says "returns", but it is part of the title. 26 USC 7806(b) says that titles are IRRELEVANT and the body doesn't mention returns.	26 USC §6065 26 USC 7806(b)		
A "liability" must exist in an enacted positive law before an assessment may be lawfully made against a "taxpayer": *"A tax is a legal imposition, exclusively of statutory origin (37 Cyc. 724, 725), and, naturally, liability to taxation must be read in **statute**, or it does not exist." [Bente v. Bugbee, 137 A. 552; 103 N.J. Law. 608 (1927)]* *"...the taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability." [Terry v. Bothke, 713 F.2d 1405, at 1414 (1983)]*	26 USC §6151	26 CFR §1.6151-1(a)	Click here Great IRS Hoax, section 5.6.1
The only place in the Internal Revenue Code that talks about payment of tax under Subtitle A is in the context of what is shown on a return signed by the "taxpayer". There is no place that mentions paying any assessment under Subtitle A for which no return was filed by the "taxpayer" signed under penalty of perjury. Furthermore, that which is not mentioned in the law can be presumed to be deliberately excluded from being a requirement under the rule of statutory construction entitled "Expressio unius est exclusio alterius".	26 USC §6151 26 USC §6065	26 CFR §1.6151-1(a)	

This is an extension of what the Supreme Court's statement: *"Keeping in mind the well-settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid**." [Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904)]*			
Assessments may not be accomplished against anyone but federal "employees" as defined under 26 CFR §31.3401(c)-1, because there are no implementing regulations published in the Federal Register authorizing them against people in states of the Union. See: http://famguardian.org/TaxFreedom/Forms/TaxExamAudit/IRSDueProcMtgWorksheet.pdf	5 USC §552(a)(1), 5 USC §553(a)(2), 44 USC §1505(a)	26 CFR §601.702(a)(1); 31 CFR §1.3(a)(4)	Great IRS Hoax, section 5.4.9
Incomplete returns may be prepared by the Secretary only upon "taxpayers" subject to the code based on information submitted by the "taxpayer". They may not be prepared against "nontaxpayers"	26 USC §6020(a)		
IRS has not statutory or regulatory authority to disregard corrected W-2 and 1099 forms provided by alleged "taxpayers" in determining the amount of an assessment or corrections to the amount thereof.			
If a person does not make a return, the Secretary may do so based on admissible evidence available to him that is signed under penalty of perjury as required by 26 USC §6065. Where there is no admissible evidence signed under penalty of perjury, there can be NO assessment. A person must be presumed innocent until proven guilty with a preponderance of admissible evidence.	26 USC §6020(b)		
Substitute for Returns (SFRs) may NOT be done using any variation of the IRS 1040 form, including 1040, 1040A, 104NR, 1040EZ, etc for people in states of the Union. The reason for this is the constraints imposed by the Constitution.	26 USC §6020(b)		IRM 5.1.11.6.10; Const. Art 1, Section 9. Clause 4 Art. 1, Section 2, Clause 3
AMOUNT OF ASSESSMENT			
All "gross income" in connection with an assessment under Subtitle A of the I.R.C. must be "effectively connected with a trade or business" (public office), excepting that documented under 26 USC 871(a) accrued to "nonresident aliens".	26 USC §871(b); 26 USC §7701(a)(31); 26 USC §864(b)(1)(A); 26 USC §864(c)(3); 26 USC §1402(a) 26 USC §861(a)(3)(C)(i)	26 CFR 1.1.-1(a)(2)(ii) 26 CFR §1.861-8(f)(1)	
Foreign earned income is not includible in "gross income"	26 USC 911(a)		
A person who does not have a "voluntary withholding agreement" in place and who is not a federal "employee" as defined under 26 CFR §31.3401(c)-1 is incapable of earning "wages". A W-4 form executed under involuntary duress does not count as a "voluntary withholding agreement". Therefore, the amount reported on a W-2 form in block 1 for such a person must be zero. Any W-2 forms which violate this requirement are invalid and must be corrected using an IRS form 4852	26 USC 3402(p)	26 CFR 31.3402(p)-1(b)	
Assessment must be IN ADDITION to an existing tax liability for a particular year. No tax liability or evidence of liability means penalties cannot be administered. This is because a person must be subject to the code and a "taxpayer" before the penalty provisions of the code can be applied	26 USC §6671(a)	26 CFR 301.6671-1(a)	
Penalties can only be made against "officer or employee of a corporation, or a member or employee of a partnership"	26 USC §6671(b)	26 CFR 301.6671-1(b)	
IRS employees DO NOT have statutory or regulatory authority to manufacture evidence. All evidence used upon which "gross income" is based must come from a third party and must be provided under penalty of perjury.	26 U.S.C. §6065		

REMEMBER: *America counts on our "public servants" to obey the law by respecting the careful limits it places on their authority!*

> *"Every citizen of the United States is supposed to know the law.."*
> *[U.S. Supreme Court in Pierce v. United States, 7 Wall (74 U.S. 169) 666 (1869)]*

The Supreme Court implies above that ***any citizen who does not know or respect the law is a BAD citizen****. The last word in "Internal Revenue Service" is "SERVICE", and we emphasize that the person you serve is the "public", and not your own pocketbook. If you obey and respect the law by providing a detailed response to this inquiry, then we will emulate your behavior by paying the monies you say we owe, provided that the assessment was lawful and done completely consistent with enacted positive law, implementing regulations, and internal bureau policies and procedures. If you broke the law, then we would be committing treason to help you or do what you say.*

EQUAL PROTECTION OF THE LAW:

The following excerpts are statements about the requirement for "equal protection of the law" guaranteed to every American, and especially in this circumstance. READ AND HEED

> *"The equal protection demanded by the fourteenth amendment forbids this. No language is more worthy of frequent and thoughtful consideration than these words of Mr. Justice Matthews, speaking for this court, in Yick Wo v. Hopkins, 118 U.S. 356, 369 , 6 S. Sup. Ct. 1064, 1071: '**When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.**' The first official action of this nation declared the foundation of government in these words: 'We hold these truths to be self-evident, [165 U.S. 150, 160] that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.' While such declaration of principles may not have the force of organic law, or be made the basis of judicial decision as to the limits of right and duty, and while in all cases reference must be had to the organic law of the nation for such limits, yet the latter is but the body and the letter of which the former is the thought and the spirit, and it is always safe to read the letter of the constitution in the spirit of the Declaration of Independence. **No duty rests more imperatively upon the courts [and government agencies] than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government.**"*
> *[Gulf, C. & S. F. R. Co. v. Ellis, 165 U.S. 150 (1897)]*

> *"In Calder v. Bull, which was here in 1798, **Mr. Justice Chase said, that there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned** a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that made a man judge in his own case; and **a law that took the property from A [the worker], and gave it to B [the government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence [nontaxpayer] into guilt [taxpayer], or punish innocence as a crime, or violate the right of an antecedent lawful private [employment] contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain that a Federal or State legislature possesses such powers [of THEFT!] if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.**' 3 Dall. 388."*
> *[Sinking Fund Cases, 99 U.S. 700 (1878)]*

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C. E. Harbidge, DBA C. E. HARBIDGE
Internal Revenue Service
55 South Market Street
San Jose, CA 95113-2324

Please be informed, Rule 301, Federal Rules of Evidence, places the burden upon the "trier of facts" in all civil actions and proceedings to go forward with the evidence to rebut the following statements of facts and memorandum of points and authorities in law, both State and Federal.

I. HEARSAY

Any oral advice provided by a contracted plan attorney is hearsay without supporting evidence of the operative facts leading up to and concerning this instant matter. The only written documentation I have received from the IRS concerning the alleged debt has been in the form of pre-printed computerized instruments making claims of an alleged debt, which were not signed under oath, penalty of perjury or affirmation affirming that the determinative facts contained therein were true, correct and complete. Nor does it evidence that a civil action, case number, or a judgment from a court of competent jurisdiction has been issued, nor is there a writ of execution or a warrant of distraint issued by a court of competent jurisdiction.

II. COMPUTERIZED EVIDENCE IS HEARSAY

The computerized (hearsay) debt instrument does not subscribe to the form of a bona fide claim according to the laws of the State of California, wherein obligations arise either by contract or tort. Property rights are controlled under state law. The computerized (hearsay) instrument is not in conformity with the Uniform Commercial Code, whereby there is no allegation or evidence in the language of the alleged debt instrument of a contract bearing my signature that would cause an obligation to anyone. The alleged debt instrument does not evidence the name of the complaining party in a civil or contempt case, in a Court of competent jurisdiction, which alleges a debt to or tort against anyone. It is a denial of due process of law to move against one without telling him/her the nature and cause of the action.

The computerized (hearsay) debt instrument does not subscribe to the form of a bona fide genuine debt instrument with a signature of a Judicial Officer. Your alleged debt instrument is a fraud. It is my information and belief that your private "Notice of Levy" is not based upon first hand knowledge, but that it is again based upon hearsay, fraud and lies. Your claim to my assets by sending a counterfeit, bogus computerized (hearsay) instrument is patently frivolous, according to the Supreme Court of the united States of America in Neitzke v. Williams, 490 U.S. 319, 325, 109 S.Ct. 1827, 1831-32, 104 L.Ed. 2d, 338 (1989) which says a claim is frivolous where it lacks an arguable basis, either in law or fact.

Your computerized records are "hearsay" and not automatically admissible under any of the so-called exceptions to the hearsay rules delineated in Federal Rules of Evidence 803 and 804. The Second Circuit in United States v. Oates, 560 F. 2d (2nd Cir. 1977) ruled that:

"What immediately catches one's attention upon referring to these sections is the prefatory language of each; ' The following are not excluded by the hearsay rule. . . .' 'These two rules enumerating the exceptions to the hearsay rule are thus not designed to insure admissibility of the questioned evidence but only designed to prevent automatic exclusion on hearsay grounds. 560 R. 2d at 65.'

Plaintiff is not challenging the inherent reliability of the United States certification, but that does not mean the computerized transcripts are not subject to all kinds of attack. Plaintiff is entitled to examine the underlying reliability of the computerized evidence. The United States did not show the method in which the evidence was obtained, retrieved, or assimilated. . . ."

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Further, concerning your computer generated (hearsay) "Notice of Levy," the Second Circuit Court of Appeals in United States v. Dioguardi, has ruled against the use of computerized evidence as having any validity in law or fact, in a court case in which some computer evidence was used in a bankruptcy related criminal prosecution. The Court said:

"It is quite incomprehensible that the prosecution should tender a witness to state the results of a computer's operations without having the program available for defense scrutiny and use on cross-examination if desired. We place the Government on the clearest possible notice of its obligation to do this and also of the great desirability of making the program and other materials needed for cross-examination of computer witnesses, such as flow charts used in the preparation of programs, available to the defense a reasonable time before trial," 428 F. 2d, at 1038.

The proper method to introduce computerized evidence requires the laying of a foundation. As stated by the Third Circuit in U.S. v. Furst, 886 F. 2d 558, 572 (3rd Cir. 1989):

"It is clear that neither witness called by the government had any knowledge as to the accuracy of the information on which the FCCB/FFCM documents was based or as to the knowledge of the persons who prepared the records. Neither Burns nor Aderhold knew that the commodities trades reported in the FCCB/FFCM statements were made, nor did they know whether the individual sending reports of the trades to CIS/ADP had such knowledge. Consequently, neither Burns nor Aderhold was a 'specific witness' with respect to the manner in which FCCB/FCCM maintained or compiled its' records and, thus, neither provided the necessary foundation for the admission of these documents.

Therefore, since no foundation was laid by the United States for the admission of these records, the computerized evidence should be stricken from the record."

The weight of authority is that a foundation must be laid for the introduction of computer "business records." see e.g. United States v. Russo, 480 F.2d. 1228 (6th Cir. 1973); United States v. Dioguardi, 428 F.2d. 1033 (2nd Cir. 1970); United States v. Ruffin, 575 F.2d. 346 (2nd Cir. 1978); United States v. Edick, 432 F.2d. 350 (4th Cir. 1970); United States v. Fendley, 522 F.2d. 181 (5th Cir. 1975); United States v. Hutson, 821 F.2d. 1015 (5th Cir. 1987); United States v. Croft, 750 F.2d. 1354 (7th Cir. 1984); and United States v. Glasser, 773 F.2d. 1553 (11th Cir. 1985).

In "Litigation," the journal of the section of litigation of the American Bar Association, Volume II, No. 1, 1975, Judge Irving Younger stated ten objections to computer printouts. A computer printout might be subject to some or all of the following objections as evidence:

(1) it is, in whole and as to each and every part and item, hearsay;
(2) it is not the highest and best evidence of the facts sought to be established by it, the original documents, properly identified and admitted, or other competent and admissible evidence of those facts, being the highest and best evidence thereof;
(3) no lawful or proper foundation has been laid for the admission of the computer print-out into evidence, because:

> *(a) it has not been shown to be a business record;*
> *(b) The person or persons who compiled the figures and information contained in it have not been identified, shown to be competent witnesses having personal knowledge of the truth, accuracy and correctness of each item in it;*
> *(c) the defendant has not had an opportunity to cross-examine those persons who prepared the information to determine the accuracy of it and their knowledge regarding it;*
> *(d) the documents on which said exhibit is based have not themselves been admitted into evidence and are themselves subject to objection and inadmissible. Before said exhibit could be admitted, those documents would have to be admissible and admitted into evidence.*

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In an action on open account, in the absence of an agreement, either express or implied, as to the value of the goods or services or the amount to be charged for them, it is necessary for the creditor to prove that the sum sued for is reasonable.

The claimant has the burden of proving that the debtor is indebted to him and in a definite and correct manner which is not evidenced by a computer print-out that is shrouded in multi-levels of hearsay, because no one, in which the computer evidence is based, **has personal knowledge of a debt due and owing.**

III. NOTICE AFTER SEIZURE

Title 26 U.S.C. § 6335(a) defines the "Notice" instrument, termed, "Notice of Levy," by use. . . . Notice is to be served to whomever seizure has been executed against **after the seizure** is effected. In short, the "Notice" merely conveys information, it is not cause for action. Proper use of the "Notice" process is specifically set out in 5 U.S.C. § 5514, as being applicable exclusively to officers, agents and employees of organizations of the United States (26 U.S.C. § 3401(c)). Title 5, U.S.C. § 5514 affords procedural due process to the federal employee. Section 2 of that statute states:

"Except as provided in paragraph (3) of this section, prior to initiating any proceedings under paragraph (1) of this section to collect any indebtedness of an individual the head of the agency holding the debt or his designee shall provide the individual with –

A. a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through the deductions from pay, and an explanation of the rights of the individual under this section;
B. an opportunity to inspect and copy government records relating to the debt;
C. an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for repayment of the debt; and
D. an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt. . . .

and, section (3) states:

The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to sections 3711 and 3716-3718 of title 31 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

In order for the computer "Notice", sent by an organization which claims to be within the Department of the Treasury of the United States, to be legitimate, a valid proof of claim, Form 4490, including the provisions of 31 U.S.C. §§ 3101, 3102, and § 3104 having been satisfied to insure due process, would be required to be included.

IV. RULE 44 AND 28 U.S.C. § 1733

The "Notice of Levy," a computerized alleged debt instrument, forwarded to my location, is not an official record of the Government of the United States according to the Federal Rules of Civil Procedure, Rule 44 and 28 U.S.C. § 1733. As stated on the face of the instrument, it is only a "Notice," and not a "levy" which warrants surrender of property.

A "Levy" requires that the property levied upon be brought into legal custody through seizure. A "Levy" is an absolute appropriation in law of the property levied upon. A mere "Notice" of intent to levy is insufficient to constitute a levy. According to United States v. O'Dell, Case Number 10188, Circuit Court of Appeals, 6th Circuit, March 10, 1947, the method for accomplishing a levy on a bank account is the

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issuing of warrants of distraint, the making of the bank a party, and serving with Notice of Levy, copies of the warrants of distraint, and Notice of Lien.

V. "NOTICE OF LEVY" NOT A "LEVY"

As repeatedly stated in this communication, the computerized document sent to me is not a "Levy" and does not authorize anything in fact or law. The Court further stated in United States v. O'Dell ". . . .*This paragraph describes a mere statement or notice of claim. Nothing alleged to have been done amounts to a levy, which requires that the property be brought into legal custody through seizure, actual or constructive, levy being 'an absolute appropriation in law of the property levied upon', Rio Grande R. Co. v. Gomilia, 132 U.S. 478, 10 S.Ct. 155, 33 L.Ed. 400; In re Weinger, Bergman & Co., D.C. 126 F. 875, 877; Smith v. Packard, 7th Cir., 98 F. 793.* ***Levy is not effected by mere notice.*** *Hollister v. Goodale, 8 Conn., 332, 21 Am. Dec. 674; Meyer v. Missouri Glass Co., 65 Ark. 286, 45 S.W. 1062, 67 Am. St. Rep. 927; Jones v. Howard, 99 Ga. 451, 27 S.E. 765, 59 Am. St. Rep. 231."* (Emphasis added)

Federal Courts have repeatedly stated that a mere notice of levy is not a levy. (See United States of America v. Stock Yards Bank of Louisville, Kentucky, 231 F. 2d. 628, April 2, 1956.) In this case, the bank argued that in addition to issuing warrants of distraint and serving notice of levy, it was incumbent upon the government to serve a notice of lien. The court decided against the government, due to violation of procedural due process and upheld the decision of the district court. Again, in the case of Freeman v. Mayer, 152 F. Supp. 383, May 28, 1957, the United States District Court, D. N.J. held that a levy for delinquent taxes requires that property be brought into legal custody through seizure, actual or constructive, and is an absolute appropriation of property levied on and mere notice of intent to levy does not constitute a levy and is insufficient. United States v. O'Dell, 6th Cir., 1947, 160 F.2d 304, 307. Accord, In re Holdsworth, D.C. N.J. 1953, 113 F.Supp. 878, 888; United States v. Aetna Life Insurance Co. Of Hartford, Conn., D.C.Conn. 1942, 146 F.Supp. 30, 37, in which Judge Hicks observed:

"...that he could find no statute which says that a mere notice shall constitute a (levy)."

There are cases which hold that a warrant for distraint is necessary to constitute a levy. Givan v. Cripe, 7th Cir. 1951, 187 F.2d. 255. United States v. O'Dell, Supra. The Court of Appeals for the Third Circuit stated in its opinion, 221 F.2d. at page 642:

"These sections *(26 U.S.C. " 3690 - 3697) require that a levy by a deputy collector be accompanied by warrants of distraint."*

The Freeman court further stated, the distress (distraint) authorized by 26 U.S.C. § 3690 (1939 Code) is different from anything known to the common law, both because it authorizes a sale of property seized, and because it extends to other personality than chattels. By its very nature it requires that the demands of procedural due process of law be rigorously honored.

As has been repeatedly stated, throughout this communication, a "Notice" of levy is not a valid levy nor a lawful claim. A levy is imperfect without a seizure. However, the statute recognizes an exception: where the person is employed by the government. In such a case, mere "Notice" of levy is sufficient to secure the funds from the government employer since the government already has the money in its' possession, it is simple to have it shifted from one government account to another (set off). However, with a private worker, there is absolutely no regulation which implements a seizure pursuant to a levy, except for Alcohol, Tobacco and Firearms activities, pursuant to legislative regulations enumerated in 27 C.F.R. Part 70. There is a statute which purports to immunize third parties from suit when they surrender a private workers' assets. Be not misled or fooled by this statute. It applies to actual levies and demands, not simply to "Notices" of levy. Thus, for a private employer, bank or anyone else to surrender a workers property, without a warrant from a court, the private employer, bank, or other organization may be sued for damages arising from a tort, conversion without lawful authority.

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VI. WHAT IS A "NOTICE?"

A notice is defined in 58 Am Jur 2d as containing "Notices" by classes or kinds of "Notice". The word "notice" can have various meanings. It has been said to be equivalent to information, intelligence, or knowledge. "Notice", however, is not always synonymous with knowledge, and facts which do not show actual knowledge may suffice to satisfy a requirement of "Notice." On the other hand the view has been taken that when a person knows of a thing, he has "Notice" thereof, as no one needs "Notice" of what he already knows, or, more accurately, that actual knowledge supersedes a requirement of "Notice."

Although actual "Notice" may approximate knowledge, there can be actual "Notice" without knowledge, since actual knowledge is not synonymous with actual "Notice."

The law recognizes two kinds of "Notice," actual and constructive. In some jurisdictions, "Notice" is classified by statutory provisions. "Notice" is regarded in law as actual where the person sought to be charged therewith, either knows of the existence of the particular facts in question or is in conscience of having the means of knowing it, even though such means may not be employed by him. Actual "Notice" has also been defined as that which is directly and personally given to the person to be notified. And, it has been said that actual "Notice" embraces those things that reasonably diligent inquiry and exercise of the means of information at hand would have disclosed.

Compare various types of "Notices," such as Notice of Lis Pendens, notice of fire, notice of labor organization elections, notice of claim, notice of appeal, and notice of proposed rule making required by 5 U.S.C. 553(b) for every substantive regulation implemented to regulate a regulated entity, such as individuals holding liquor or firearms permits. The "Notice" provided by § 553(b) affords due process to a regulated entity for an opportunity to comment on his/her approval or non-approval of the proposed regulation. However, the "Notice" of proposed rule making published in the "Notice" section of the Federal Register cannot be compared with a regulatory hearing, therefore it is simply a "Notice" and not the actual "hearing." Neither is a computerized (hearsay) "Notice of Levy" an actual "Levy" nor even a legitimate "Notice", for that matter, because it does not contain evidence (an approved OMB control number) that it has been approved for public use by the Office of Information and Regulatory Affairs under the Paperwork Reduction Act and Executive Order 12291 - Regulatory Flexibility Act. (See Federal Register, Vol 57, 293, Friday, Dec. 11, 1992, P. 58762)

VII. WHAT IS A "LEVY?"

To understand the limited nature of a levy, the term must be defined. A levy is a confiscation of property in accordance with a legal judgment. From the definition itself, it demonstrates there are two elements to a levy. The first element is that a levy is a confiscation of property. It is limited by the second element, which is that before the property can be confiscated it must be in accordance with a legal judgment. In civil law, the specific process is carried out by a Writ of Execution or Warrant of Distraint, which is a formal process issued by a court, generally evidencing the debt of the defendant to the plaintiff and commanding the officer (Sheriff, U.S. Marshall, etc.) to take the property of the defendant in satisfaction of the debt (Fed. Rules of Civil Procedure, Rule 69(a)& (b).) The Writ of Execution or its equivalent, results in a lien filed against the property by the court. A lien, by definition, is a claim on property for payment of a valid debt or obligation arising either by contract or tort. Some important points to comprehend regarding the nature of the levy are:

1. Levy can only come after seizure;
2. Seizure only applies to property subject to forfeiture;
3. The only property subject to forfeiture is that which is under the provisions of 26 U.S.C., Subtitle E - Alcohol, Tobacco, Firearms and certain other miscellaneous excise taxes.
4. All the enabling legislative regulations pertaining to levy are found in 27 C.F.R., which pertains only to those activities described in number three (3) above.

What is a "Notice" of seizure? The law (Title 26 U.S.C. § 6502, Collection after assessment) at (b) states:

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"The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given."

Understanding and awareness of the above provisions of the United States statutes is critical to comprehending how employees of the Internal Revenue Service have totally subverted 26 U.S.C. § 6331.

So let there be no doubt about this. Under the law, as provided in 26 U.S.C. § 6331, there can be no levy, i.e. no levy is made, unless a notice of seizure, pursuant to 26 U.S.C. § 6502 and regulations promulgated thereunder, is given to the person whose property has been allegedly made subject to levy. If a persons property is taken, allegedly by levy, or a computerized (hearsay) "Notice" of levy, but without a "Notice" of seizure being given, then only one of the two possibilities exist. One, such property was not taken or is sought to be taken by levy, or two, such property was taken by levy, or computerized "Notice of levy" illegally.

VIII. FALSE STATEMENTS ON FORM 668W-c

The minimum number of false and misleading statements contained in a typical "Notice of Levy" are the following:

1. Chapter 64 of Title 26, U.S.C. provides a "lien" for the above tax and addition.
2. Notice and Demand has been made on the "taxpayer"
3. This amount is still due and owing.
4. All property...in your possession and belonging to this "taxpayer"...are levied upon.
5. Demand is made on you...to pay this tax liability.

Most people have little or no understanding of the law and are unaware of the statutory and regulatory requirements that must be met before a "Notice" of levy can be valid. What those who receive the "Notice" fail to consider is that since they are the fiduciary in possession of the property, it is they who are ultimately responsible for determining its disposition and not the responsibility of a computerized piece of paper with a pre rubber stamped signature of an alleged revenue collector. The trust we place in those who maintain our property is much like the trust we place in our Doctor. It should be maintained at the highest possible degree of honesty and integrity. After all, it is our livelihood at stake. It is a fundamental right of an individual under contract to exchange his sweat and labor for valuable consideration and receive full compensation as enumerated by the terms of their contracts.

IX. AUTHORITY OF SECRETARY TO LEVY

Where is the authority of the Secretary to "levy?" It is restricted to and contained within 26 U.S.C. § 6331(a) and legislative regulations, 27 C.F.R. Part 70.161, published in the Federal Register and the Code of Federal Regulations. Title 26 U.S.C. § 6331(a), Levy and Distraint, states:

"(a) Authority of Secretary - If any person liable to pay any tax neglects and refuses to pay the same within 10 days after notice and demand, it shall be lawful for the secretary to collect such tax (and such further sums as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10 day period provided in this section." (Emphasis added)

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X. STATUTES AND ENABLING REGULATIONS

The United States Code/Code of Federal Regulations Parallel Table of Authorities, reveals quite clearly the limited application of this section by identifying these excise taxes. The enabling legislative regulations that it specifies pertain ONLY to 27 C.F.R. Part 70 (alcohol, tobacco and firearms) and those other miscellaneous excise taxes found in title 26, Subtitles D and E. **There is simply no connection whatsoever with the income tax in Subtitle A.** Regulations would be required to be published the Federal Register, pursuant to the Federal Register Act, codified at 44 U.S.C. §§ 1501 to 1510. Such regulations regarding levies and seizures of property would be listed as Parts 1.6331, 1.6332 and 1.6335. Please examine the enclosed Exhibit E to verify the non-existence of implementing legislative regulations pertaining to Subtitle A, Chapter 1 (Income Tax).

Statutes and implementing regulations guarantee procedural due process and guard against usurpation of regulatory authority by rogue elements of government organizations which is not in accordance with the laws of the United States of America, the fifty (50) states of the Union and the Constitution for the united States of America.

The following cites are examples of the limitations on the authority of employees of government organizations to protect the public against usurpation's of positions of public trust:

5 U.S.C. § 552 (a) (1) (D) *"substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and"* 5 U.S.C. § 552 (a) (1) (E) *"each amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published..."* (emphasis added)

26 C.F.R. Chapter 1, (4-1-92 edition) Part 601.702(a)(2)(ii) *"Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (1) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights."* (emphasis added)

44 U.S.C. § 1507 *"A document required by section 1505(a) of this title to be published in the Federal Register is not valid as against a person who has not had actual knowledge of it until the duplicate originals or certified copies of the document have been filed with the Office of the Federal Register and a copy made available for public inspection as provided by section 1503 of this title..."* (emphasis added)

The Paperwork Reduction Act of 1980, enacted December 11, 1980 by Public Law 96-511, 94 Stat. 2812, amended October 1986 by Public Law 99-591, Title I, § 101(m), 100 Stat 3341-335 was enacted to *"minimize federal paperwork burden for individuals, small business and State and local government,...to minimize the cost of information collection to the Federal Government..."* The Paperwork Reduction Act is codified at 44 U.S.C. §§ 3501-3520. The Act applies to all agencies in the executive branch, as well as to the independent regulatory agencies. The Act provides public protection at § 3512, which states: *"Public protection. Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director, or fails to state that such request is not subject to this chapter (44 U.S.C.S. et. seq.)* (emphasis added) and, the implementing regulations, codified at 5 C.F.R. Part 1320.5 Public Protection, states:

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failure to comply with any collection of information:

(1) That does not display a currently valid OMB control number; or

(2) In the case of a collection of information required by law or to obtain a benefit which is submitted to nine or fewer persons, that fails to state, as prescribed by Sec. 1320.4(a), that it is not subject to OMB review under the Act. The failure to display a currently valid OMB control number for a collection of information contained in a current rule does not, as a legal matter, rescind or amend the rule; however, its absence will alert the public that either the agency has failed to comply with applicable legal requirements for the collection of information or the collection of information has been disapproved, and that therefore the portion of the rule containing the collection of information has no legal force and effect and the public protection provisions of 44 U.S.C. § 3512 apply..."

The Secretary of the Treasury has demonstrated his intent to comply with the requirements of the Paperwork Reduction Act as listed in 26 C.F.R. Part 602.101, administrative regulations stating the basis and purpose of those intentions at (a). To wit:

Purpose. This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. ***The Internal Revenue Service intends that this part (together with 26 C.F.R. 601.9000) comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 C.F.R. Part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations....***

I have examined the approved list of information collection requests listed in 26 C.F.R. Part 602.101 for the years 1985 to the most current, in which the Secretary stated that the list contains the Control Numbers that have been approved by OMB, and cleared pursuant to 5 C.F.R. § 1320.12.

I have found no information collections requests that have been approved by the Office of Information and Regulatory Affairs (OMB) for the following statutes pertaining to an Income Tax, which is referenced at 26 C.F.R. Part 1, Subchapter A - Income Tax:

(ALSO SEE C.F.R. INDEX AND FINDING AIDS, STATUTES CROSS REFERENCE TO U. S. REGULATIONS)

Statute: 26 U.S.C. Description Enforcement Regulation

§ 6020(b) Returns made by the Secretary 27 C.F.R. Parts 53 & 70
§ 6201 Assessment Authority 27 C.F.R. Parts 53 & 70
§ 6203 Method of Assessment 27 C.F.R. Part 70
§ 6212 Notice of Deficiency No Regulation
§ 6301 Collection Authority 27 C.F.R. Parts 70, 24, 25, 250, 270, 275,276
§ 6303 Notice and Demand 27 C.F.R. Part 70
§ 6321 Lien for Taxes 27 C.F.R. Part 70
§ 6331-43 Levy and Distraint 27 C.F.R. Part 70
§ 6601-02 Interest on underpayments 27 C.F.R. Part 70
§ 6651 Failure to File Tax Return or Pay Tax 27 C.F.R. Parts 70, 24, 25, 194
§ 6671 Penalty Assessed as Tax, Person Defined 27 C.F.R. Part 70
§ 6701 Penalties for Understatement of Tax 27 C.F.R. Part 70
§ 7201 Attempt to Evade or Defeat Tax No Regulation
§ 7203 Willful Failure to File Return, Supply
Information or Pay Tax No Regulation
§ 7207 Fraudulent Returns 27 C.F.R. Part 70
§ 7212 Interference with Administration of
of Internal Revenue Laws 27 C.F.R. Parts 170, 270, 275, 285, 290, 295
§ 7342 Penalty for Refusal to Permit Entry
or Examination 27 C.F.R. Parts 24, 25, 170, 270, 275, 285, 290, 295, 296
§ 7401 Judicial Proceedings Authorizations 27 C.F.R. Part 70
§ 7403 Judicial Action to Enforce Lien 27 C.F.R. Part 70

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§ 7601 Canvass of District for Taxable Persons 27 C.F.R. Part 70
§ 7602 Examination of Books and Witnesses 27 C.F.R. Part 70
§ 7603 Service of Summons 27 C.F.R. Part 70
§ 7604 Enforcement of Summons 27 C.F.R. Part 70
§ 7605 Time and Place for Examination 27 C.F.R. Part 70
§ 7608 Authority of Internal Revenue
Enforcement Officers 27 C.F.R. Part 70, 170, 296

The Code of Federal Regulations is prima facie evidence of the matters contained therein. I have found no regulations in 26 C.F.R. Part 1, Subchapter A which are relative to the statutes listed in the foregoing paragraph. (see 44 U.S.C. § 1510)

XI. U. S. SUPREME COURT AND FEDERAL REGULATIONS

The Supreme Court has repeatedly established that regulations are necessary to implement a statute. The Supreme Court of the United States of America, in California Bankers Association v Shultz, 94 S.Ct. 1494 (1974), said "*...the statute is not self-executing, were the Secretary to take no action whatever under his authority there would be no possibility of civil or criminal sanctions being imposed on anyone....we think it important to note that the Acts civil and penalties attach only upon the violation of regulations promulgated by the Secretary; if the Secretary were to do nothing the Act itself would impose no penalties on anyone...*"

The United States government stated in this instant case, "*...The government urges that since only those who violate these regulations may incur civil and criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which is to be tested against the standards of the Fourth Amendment; and that when so tested they are valid.*"

In United States v. Mersky, 361 U.S. 431, 437, 438, 80 S.Ct. 459 (1960) the Court had before it a statute which contained the words, *"The Secretary may by regulations..."* concerning this language, the Court stated as follows: *"Here the statute is not complete by itself since it merely declares the range of its operation and leaves to its progeny the means to be utilized in effectuation of its command...once promulgated, these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the Congressional language. The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore the construction of one necessarily involves the construction of the other."*

In the case of United States of America v. Murphy, 809 F.2d. 1427 9th Cir (1987) regarding the Currency Reporting Act, the Court stated that the Currency Reporting Act is not self executing and imposes no reporting duties with respect to currency transactions until implementing regulations have been promulgated. See 31 U.S.C.A. § 5311, et seq. The Court also further stated, quoting California Bankers Association v. Shultz, the reporting act is not self executing. It can impose no reporting duties until implementing regulations have been promulgated. Dodd v. United States, 223 F. Supp. 785 (1963) said **for Federal tax purposes, regulations govern**. Lyeth v. Hoey, 1938, 305 U.S. 188, 59 S.Ct. 155, 83 L.Ed. 119. Curley v. United States of America, 791 F. Supp. 52 (E.D.N.Y. 1992) at page 55 says "*failure to adhere to agency regulations may amount to denial of due process if the regulations are required by The Constitution or a statute.*" See Arzanipour v. Immigration & Naturalization Service, 866 F.2d. 743, 746, 5th Cir. 1989 - Cert denied 493 U.S. 814, 110 S.Ct. 63, 107 L.Ed.2d. 30 (1989)

In the case of United States v. Renis, 794 F.2d. 506 (9th Cir. 1986) concerning Bank Secrecy Act violations and the promulgation of Form 4789 in the Federal Register as a substantive regulation, the court stated at page 508: "*Form 4789, however, was never promulgated pursuant to the rule making requirements of the Administrative Procedures Act. 5 U.S.C. § 553. United States v. Richter, 610 F.Supp. 480, 489 and n.14 (D.C.Ill. 1985). Consequently, Form 4789 is not effective as a regulation. See United States v. $200,000 in United States Currency, 590 F. Supp. 866 (S.D.Fla 1984). Criminal penalties for failure to report currency*

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transactions can attach only upon violation of the regulations promulgated by the Secretary. See California Bankers Association v. Shultz, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed.2d. 812 (1974)"

In the Supreme Court case of United States v. Pennsylvania Chem. Corp., 411 U.S. 655, 36 L.Ed.2d. 567, 93 S.Ct. 1804, P. 581 the court stated: "*Moreover, although the regulations did not of themselves purport to create or define the statutory offense in question, see United States v. Mersky, 361 U.S. 431, 4 L.Ed.2d. 423, 80 S.Ct. 459 (1960), it is certainly true that their designed purpose was to guide persons as to the meaning and requirements of the statute. Thus, to the extent the regulations deprived PICCO of fair warning as to what conduct the government intended to make criminal, we think there can be no doubt that traditional notions of fairness inherent in our system of criminal justice prevent the government from proceeding with the prosecution.*"

The United States Supreme Court stated in United States v. Vogel Fertilizer Co., 455 U.S. 16, 70 L.Ed.2d. 792, 102 S.Ct. 821: "*The framework for analysis is refined by consideration of the source of the authority to promulgate the regulation at issue. The Commissioner has promulgated Treasury Reg and § 1.1563-1(a)(3) interpreting this statute only under his general authority to 'prescribe all needful rules and regula45tions.' 26 U.S.C. § 7805(a) [26 U.S.C.S. § 7805(a). Accordingly, 'we owe the interpretation less difference than a regulation issued under a specific grant of authority to define a statutory term or prescribe a method of executing a statutory provision.' Rowan Cos. v. United States, 452 U.S. 247, 253, 68 L.Ed. 814, 101 S.Ct. 2288 (1981). In addition Treas. Reg § 1.1563-1(a)(3) purports to do no more than add a clarifying gloss on a term - brother - sister control group - that has already been defined with considerable specificity by Congress. The Commissioners authority is consequently more circumscribed than would be the case if Congress had used a term 'so general. . . .as to render an interpretative regulation appropriate." National Muffler Dealers Assn. Inc. v. United States, 440 U.S. 472, 476, 59 L.Ed.2d. 519, 99 S.Ct. 1304 (1979), quoting Helvering v. R. J. Reynolds Co., 306 U.S. 110, 114, 83 L.Ed. 536, 59 S.Ct. 423 (1939).*

In the case of United States v. Oliver L. North, Case Number 88-0080-02GAG (D.D.C. November 18, 1988) in the pleadings filed in Oliver North's case, the Department of Justice set forth its position concerning the proper scope of § 371, conspiracies in a manner inconsistent with § 1956 of the Bank Secrecy Act. Mr. North was exonerated on charges of Money Laundering and violations of the Bank Secrecy Act due to the rulings in California Bankers Assn. v. Shultz, Supra.

Congress, the Court said, thus fixed "*a primary standard*" and committed to the Secretary of the Treasury "*The mere executive to effectuate the legislative policy declared in the statute.*" "*Congress legislated on the subject as far as was reasonably practicable, and from the necessities of the case was compelled to leave to the executive officials the duty of bringing about the result pointed out by the statute.*" see Red "C" Oil Co. v. Board of Agriculture of North Carolina, 222 U.S. 380, 394, 32 S.Ct. 152, 56 L.Ed. 240.

XII. TITLE 26, U. S. C. § 7805

Title 26, U.S.C., § 7805, Rules and Regulations: 7805(a) AUTHORIZATION, "....*the Secretary shall prescribe all needful rules and regulations for the enforcement of this title. ..*" ***§ 7805(c) PREPARATION AND DISTRIBUTION OF REGULATIONS, FORMS, STAMPS, AND OTHER MATTERS.*** "*The Secretary shall prepare and distribute all the instructions, regulations, ... pertaining to the assessment and collection of internal revenue.*"

The object and purpose of regulations is to carry into effect the law in respect to which they may be promulgated; where rights, duties and obligations are defined by statute, they cannot be taken away or abridged by the regulations of an executive department. See Campbell v. U.S., Ct. Cl. 1882, 2 S.Ct. 759, 107 U.S. 407, 27 L.Ed. 592. See also Laurey v. U.S., 1897, 32 Ct. Cl. 259.

Blacks Law Dictionary definitions quoted in the definitions, Internal Revenue Code, "*such laws comprise title 26 of the U.S. Code, and are* ***implemented by the Internal Revenue Service and through it treasury Regulations***" (emphasis added)

XIII. CODE OF FEDERAL REGULATIONS; (C.F.R.'S) MUST BE EVIDENCED TO OBTAIN IN REM, PERSONAM, AND SUBJECT MATTER JURISDICTION:

The Code of Federal Regulations, 1 C.F.R., Part 1 describes requirements for organizations and entities of the Federal government to promulgate their regulations in the Federal Register pursuant to the directives of the Administrative Committee of the Federal Register. Following are excerpts from 1 C.F.R., enumerating those requirements:

1 C.F.R. Part 21-*PREPARATION OF DOCUMENTS SUBJECT TO CODIFICATION*:

§ 21.21 *General Requirements references. (a) Each reference to the Code of Federal Regulations shall be in terms of specific titles, chapters, parts, sections, and paragraphs involved. Ambiguous references such as quotation marks herein, above, below, and similar expressions may not be used. (b) Each document that contains a reference to material published in the Code shall include the Code citation as a part of the reference. (c)Each agency shall publish its own regulations in full text. Cross-references to the regulations of another agency may not be used as a substitute for publication in the full text, unless the Office of the Federal Register finds that the regulation meets any of the following exceptions; (1) the references required by court order, statute, Executive order or reorganization plan. (2) The reference is to regulations promulgated by an agency with the exclusive legal authority to regulate in a subject matter area, but the referencing agency needs to apply those regulations in its own programs.* (emphasis added)

§ 21.35 *OMB CONTROL NUMBERS: To display OMB control numbers in agency regulations, those numbers shall be placed parenthetically at the end of the section or displayed in a table or codified section.*

§ 21.40 *GENERAL REQUIREMENTS: AUTHORITY CITATIONS. Each section in a document subject to codification must include, or be covered by, a complete citation of authority under which the section is issued, including -* ***(a) General or specific authority delegated by statute; and (b) executive delegations, if any, necessary to link the statutory authority to the issuing agency.*** (emphasis added)

§ 21.41 *AGENCY RESPONSIBILITY: (a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues. (b) Each issuing agency shall formally amend its citations of authority in its codified material to reflect any changes therein.*

The computerized (hearsay) alleged debt instrument sent to my location fails to conform to regulations promulgated by the Office of Management and Budget, the Administrative Committee of the Office of the Federal Register, Federal Rules of Evidence, the Administrative Procedures Act and the Federal Register Act. First, the alleged debt instrument fails to reference any delegation of authority to a person or persons designated by the title or block signature as "we," pursuant to 5 U.S.C. § 558(b) and Revenue internal operations manual, IRM 1229 (Handbook of Delegation Orders). The alleged debt instrument states, "*although* ***'we'*** *have told you to pay the amount you owe, it is still not paid."* This statement is in violation of 18 U.S.C. § 1001 concerning false documents pretending a debt and pretending issue by an organization of the Department of the Treasury by someone going by the "alias" of "we."

The computerized (hearsay) debt instrument sent to my location fails to reference an OMB approval number which is required by Office of Information and Regulatory Affairs. (;SEE O.M.B. SUPRA)

The computerized (hearsay) debt instrument sent to my location fails to state the Public Law in the Statutes at Large that reference an enabling Act of Congress enacting a "1040A" tax. Your claim is frivolous, bogus, fraudulent and a sham. It is without foundation in law, fact and merit.

The computerized (hearsay) debt instrument sent to my location fails to reference the rule making authorities within the regulations or statutes at large that provide the needful rules for the enforcement of a "1040A" "Kind of Tax." Such statements made by the administrator in correspondence to my above mentioned location is "blowing smoke and spewing vapors of wind."

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As previously stated, material facts were knowingly, willfully and intentionally misrepresented on the computerized (hearsay) debt instrument, Form 668-W(c) by failing to reference (deliberately omitting) 26 U.S.C. § 6331(a) and legislative regulations required to be published in the Federal Register and codified at 27 C.F.R. Part 70 on the reverse side of part 4, which describes the real parties in interest.

The computerized (hearsay) debt instrument sent to my location fails to reference any nexus between myself and a Puerto Rican Trust Fund, a Virgin Islands Trust Fund, a "1040A Tax" allowing in personum or subject matter jurisdiction in any action by the aforementioned entities administratively or judicially in a court of competent jurisdiction.

The computerized (hearsay) debt instrument sent to my location fails to reference that the Administrator, Employees and Trustees of my banking assets have the authority to administer and enforce U. S. Public Laws and legislative regulations as per the Code of Federal Regulations Index and Finding Aids, and 27 C.F.R.

The computerized (hearsay) debt instrument sent to my location fails to reference or identify language that such Form has been published in the Federal Register as a substantive rule as required by 5 U.S.C. § 552(a)(1)(D), § 552(a)(1)(C) and as a document as required by 44 U.S.C. § 1505(a) and (b) and regulations promulgated in 1 C.F.R. by the Administrative Committee of the Federal Register.

XIV. NECESSITY TO PUBLISH FORMS

Rules of United States government organizations, especially those which are not published, can appear in a variety of documents such as manuals, letters, instructions and other documents. Additionally, forms used by agencies can fall within the ambit of a **"substantive rule,"** especially those designed to implement a law, **thus necessitating publication**. Several cases have considered the consequences of non-publication of such forms.

In United States v. Two Hundred Thousand Dollars ($200,000) in United States Currency, 590 F.Supp. 866 (S.D.Fla. 1984), at issue was the validity of Customs Form 4790 (Currency Transaction Report), used in the enforcement of the Currency and Foreign Transactions Reporting Act. In this case a man named Palzer had suffered the seizure of $200,000.00 by Customs when he entered the country and failed to submit Form 4790. In the resulting forfeiture proceedings, Palzer intervened and asserted the invalidity of the form because it constituted an agency "rule" which had not been published in the Federal Register. In considering Palzer's claim, the court here found that regulations required the filing of a form, although the substance and contents of the information required to be supplied was not addressed in the regulations. The court stated:

"However, the regulations are incomplete in this case without the forms because the regulations do not set forth the information a traveler will be required to furnish on the forms, specifically form 4790." 590 F. Supp. at 790.

The court found that the form itself constituted an agency "rule":

*"Interpretative rules are 'statements as to what the administrative officer thinks the statute or regulation means,'. . .**whereas substantive rules,** such as Form 4790, are issued by an agency pursuant to statutory authority which have the force and effect of law....it is also apparent that Form 4790 is not a general statement of policy as would be exempted from the publication requirement under 5 U.S.C. § 553(b). That Form 4790 is a **"legislative" rule** rather than an interpretative one or a general statement of policy is apparent from the fact that the Form was clearly intended to implement the pertinent statute. .. And the regulation...; section 551(4) of the APA distinguishes agency statements designed to implement a law from those designed to interpret it." 590 F.Supp. at 871.* (emphasis added)

The court also stated:

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"For an agency statement or requirement to be considered a valid 'rule', three conditions must be satisfied; rule must be within agency's granted power, it must be issued pursuant to proper administrative procedures and it must be reasonable as a matter of due process. 5 U.S.C.A. 551 n. 382"

Another case addressing the issue of non-publication of a government Form as a substantive rule is United States v. Reinis, 794 F.2d 506 (9th Cir 1986). (See Reinis, supra) In this case Reinis was charged with money laundering and consequent failure to file the C.T.R. Form 4789. In a short opinion, and based upon the authority of the opinion, it was held that this Form was a substantive rule which was invalid for failure of the agency to publish the same in the Federal Register pursuant to the legislative rule making requirements.

XV. FORMS CONSTITUTE REGULATIONS

Additionally, forms constitute legislative rules pursuant to 5 U.S.C. § 552(a)(1)(D) and § 552(a)(1)(C). They must comply with 5 U.S.C. § 553(b),(c) and (d) and the Paperwork Reduction Act. Further, there must be some instructions regarding the Form which defines the scope and contents of the Form. If a Form such as a computerized (hearsay) debt instrument (Form 668-W(c)) deletes a required paragraph, to wit, 26 U.S.C. § 6331(a) which is included on a true "levy" Form, 668-B, it does not comply with the foregoing, and there can be no requirement in law for anyone to comply with a request from an employee of an foreign organization or a de jure United States government agency. See Gonzalez v. Freeman, 334 F.2d. 570, (D.C. Cir 1964), Hotch v. United States, 212 F.2d. 280 (9th Cir 1954), Berendes v. Butts, 357 F.Supp. 144 (D. Minn 1973), Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055 (1974), Northern California Power Agency v. Morton, 396 F.Supp. 1187 (D.D.C. 1975), Appalachian Power Company v. Train, 566 F.2d. 451 (4th Cir 1977), Rowell v. Andrus, 631 F.2d 699 (10th Cir 1980), Virginia Electric and Power Company v. Costle, 566 F.2d. 446, 448 (4th Cir 1977), Vigil v. Andrus, 667 F.2d. 931 (10th Cir 1982), PPG Industries, Inc. v. Costle, 659 F.2d. 1239 (D.C. Cir 1981), Herron v. Heckler, 576 F.Supp. 218 (N.D. Cal 1983). (an unpublished Social Security claims manual which directly affected entitlement to Social Security Benefits was found void [in Herron]).

A variety of issues based upon the provisions of the Clean Air Act were at issue in Maryland v. Environmental Protection Agency, 530 F.2d. 215 (4th Cir 1975). In this case Maryland complained that certain regulations of the E.P.A. which allegedly applied to it had not been subjected to pre-promulgation publication in the Federal Register. Finding that the challenged regulations were published in final form in the Federal Register but had not been published therein in the notice and comment phase (5 U.S.C. § 553(b)) of the process of the regulations promulgation, the same were found void and unenforceable. To briefly summarize the requirements that command Federal organizations to publish certain items in the Federal Register, perhaps the following passage from D & W Food Centers Inc. v. Block, 786 F.2d. 751 (6th Cir 1986), succinctly makes the point:

"An agency pronouncement must be published if it is of such nature that knowledge of it is needed to keep parties informed of the agency's requirement as a guide for their conduct....An interpretation is not of 'general applicability' if (1) only a clarification of existing laws is expressed, and (2) the interpretation results in no significant impact on any segment of the public... policy ***Agencies need not publish interpretative rules, general statements of, or rules of agency organization, procedure or practice****... however, a rule required to be published which is not published is void, and may not be enforced against a non-complying party."* D & W Food Centers, 786 F.2d. at 757. (Emphasis added)

It is thus clear from the above cited and quoted cases, which are representative samples of the multitude of similar cases, that an agency's' failure to publish any document (regardless of how named by the agency), which is required to be published in the Federal Register by the Administrative Procedures Act and the Federal Register Act that is designed to implement or prescribe a law **affecting substantive rights** is a legislative rule which is void and unenforceable.

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XVI. PURPOSE OF THE ADMINISTRATIVE PROCEDURE ACT

The purpose of the A.P.A. is to set up procedures which must be followed in order for agency rulings to be given the force of law. Hotch v. United States, supra. It was designed to provide a shield for a petitioner before an agency. TSC Motor Freight Lines Inc. v. United States, 186 F.Supp. 777 (S.D. Tex 1960) Aff'd sub-nom. Herrin Transportation Co. v. United States, 366 U.S. 419, (1961), citing Foreman & Clark, Inc. v. National Labor Relations Board, 215 F.2d. 339, 410 (9th Cir 1954), Cert. denied, 348 U.S. 887 (1954). The A.P.A. says substantive rules are those affecting a change in law or policy. Interpretative rules are those which merely clarify or explain existing law or regulations. Powerly v. Schweiker, 704 F.2d. 1092, 1098 (9th Cir 1983), citing Gosman v. United States, 573 F.2d. 31, 39 (Ca. Cl. 1978). **Informal rules such as 26 C.F.R. Part 301, all the way up to Revenue Rulings**, do not have the force and effect of law as a legislative rule and need not be published according to the Notice and Comment procedures of 5 U.S.C. § 553(b). Caterpillar Tractor Co. v. United States, 589 F.2d. 1040, 1043 (Ct. Cl. 1978)

XVII. WHAT IS THE INTERNAL REVENUE SERVICE?

Due process of law requires that an organization of the Federal government publish its organizational structure. 5 U.S.C. § 552 expressly requires an organization to publish statements or descriptions of its central and field organizations and establish places where the public is required to make submittals. The reasons for such a requirement are obvious and readily apparent. Thus, current statutes impose stringent requirements upon a Federal organization to publish in the Federal Register descriptions of its organizational structure as well as those substantive rules of general applicability duly promulgated by the government entity. **Any matter required by law to be published, but which is not, cannot be the basis for imposition of any sanction or penalty against anyone**. Almost without exception, Congressional enactments designate a particular Federal organization and executive branch officer as the official statutorily authorized to administer and enforce the act in question. Such an officer further will have similar statutory duties arising, not from one, but invariably many Congressional Acts.

The computerized (hearsay) debt instrument sent to my address implied that the Internal Revenue Service is an organization of the Department of the Treasury of the United States of America. However, 31 U.S.C. Chapter 3, Subchapter 1 lists the organizations of the Department of the Treasury. **The Internal Revenue Service is not listed as being an organization within the Department of the Treasury**. At 31 U.S.C. § 308, pertaining to the United States Customs Service, in the History, Ancillary Laws and Directives, the following statement is made:

"The section is included to provide in subchapter 1 of chapter 3 of the revised title a complete list of the organizational units established by law that are in the Department of the Treasury or are subject to the direction and supervision of the Secretary of the Treasury."

There is indication by my research of the Statutes at Large that Congress has not passed a Public Law nor an enabling Act creating an organization known as "Internal Revenue Service." 1 C.F.R., Part 1, § 1.1 describes a document having general applicability and legal effect as:

"means any document issued under proper authority prescribing a penalty or course of conduct conferring a right, privilege, authority or immunity, or imposing an obligation, and relevant or applicable to the general public, members of a class, or persons in a locality, as distinguished from named individuals or organizations;" (emphasis added)

"Filing means a document available for public inspection at the Office of the Federal Register during official business hours. A document is filed only after it has been received, processed and assigned a publication date according to the schedule in Part 17 of this chapter."

44 U.S.C. § 1505(a) also states that documents having general applicability and legal effect are required to be published in the Federal Register. The Secretary of the Treasury has not published in the Federal Register a Treasury Department Order (TDO) creating the "Internal Revenue Service." For all legal intents

and purposes, Treasury Department Order 150-06 of July, 1953 is an internal management document and therefore not applicable to the public at large and for legal purposes the "Internal Revenue Service" is invisible according to established law of the Administrative Procedures Act, 5 U.S.C. § 552(a)(1)(A) and 5 U.S.C. § 558(b).

XVIII. ENABLING ACTS FOR AGENCY RULEMAKING

Congress has a persuasive influence on agency rulemaking activities. Congress grants the fundamental authority to an administrative organization to engage in policy making through rulemaking. The enabling regulatory statute derived from public law typically will, at least in general terms, define the scope of agency authority, and describe any specific rulemaking procedures the agency must follow in addition to, or in lieu of, the minimum requirements of 5 U.S.C. § 553. For an example, see Bowen v. Georgetown University Hospital, 488 U.S. 204, 109 S.Ct. 468 (1988), in which the Supreme Court held that the Medicare Act, 42 U.S.C. § 1395x(v)(1)(A), did not authorize the Secretary of HHS to promulgate retroactive cost-limit rules. The Court said, at 471:

"It is axiomatic that an administrative agency's power to promulgate legislative regulative regulations is limited to the authority delegated by Congress."

EXAMPLES OF ENABLING STATUTES: N.L.R.B. 29 U.S.C. § 156; Americans with Disabilities Act of 1990 - PL 101-336, § 229 Directs the Secretary of Transportation to issue regulations to carry out a portion of the Act (104 Stat. 327) 42 U.S.C. § 12101; O.S.H.A., the Secretary of Labor is authorized to promulgate Occupational Safety and Health Standards by legislative rulemaking, 29 U.S.C. § 655; The National Highway Traffic Safety Administration is directed to issue motor vehicle safety standards by the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. § 1392; The Administrative Committee of the Federal Register implements regulations to administer and enforce regulations in documents to be published in the Federal Register by organizations of the Executive Branch of government, made pursuant to 1 C.F.R. Chapter I and II, the Federal Register Act codified at 44 U.S.C. § 1506; § 6, E.O. 10530, 19 Fed. Reg. 2709: 3 C.F.R., 1954-1958 comp. Page 189.

Based upon the facts and law contained herein, the following violations of due process of law and Constitutional provisions listed, supra, have occurred resulting in unlawful conversion of my banking assets to a foreign principal:

1. No lawful "seizure" or "levy" has occurred by the United States government or an agency thereof such as the Bureau of Alcohol, Tobacco and Firearms, in accordance with legislative regulations published in the Federal Register and codified in 27 C.F.R.
2. Unauthorized disclosure by the Administrator, Secretaries and/or Trustees of my banking assets of private financial information concerning me to a third party without my consent, thereby violating my right to financial privacy, protected by the limitations of Fourth and Ninth Amendments to the Constitution for the united States of America. It is well established law that I have a reasonable expectation to privacy of records concerning my person, my property and my family.
3. No Power of Attorney has been subscribed by me affording employees of Washington Mutual or Wells Fargo the authority to assign my bank accounts to a third party.
4. No rights have been waived knowingly, willingly and intentionally by me concerning property rights and the right to contract which is protected by the limitations of the Fifth and Tenth Amendments to the Constitution for the united States of America.

C. E. Harbidge is hereby charged with the obligation of going forward with substantive evidence to disprove and rebut the allegations stated herein. Failure to rebut in accordance with the rules of evidence of the State of California will be an acquiescence to facts and conclusions of law stated in his memorandum. Immediately provide your rebuttal or in the alternative release to me all funds due me pursuant to your recent "levy."

C16

I expect to receive a response within five (5) working days after the date of your receipt of this memorandum. Please send a copy of your response to:

Paul J. Sholtz
500 West Middlefield Road, #99
Mountain View, CA 94043

Legal file
Blind

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

P (

SMALL BUSINESS/SELF-EMPLOYED DIVISION

February 28, 2007

Paul J. Stolz
500 West Middlefield Road, #99
Mountain View, CA 94043

Dear Mr. Paul Stolz:

This is in response to your Freedom of Information Act (FOIA) request dated February 21, 2007, and received in our office on February 22, 2007. We have enclosed a copy of your request for your reference.

Item 6: Your request asks for Notice of Assessment or Form 2162 pertaining to Paul J. Stolz, account number 377-76-2915 for tax year 2001. We have found that Form 2162 was obsolete on April 1, 1988. This particular form has been replaced by an automated RACS (Revenue Accounting Control System) report. Therefore, there are no documents responsive to your request.

The enclosed Notice 393 explains your appeal rights.

Item 7: Please be advised that Form 2866, Certificate of Official Record, is not used to certify documents in response to Freedom of Information Act requests. It should be noted that certification merely certifies that the document is a true copy of a document in Internal Revenue Service records. It does not speak to the accuracy or validity of the contents of the document. Please be advised that under the FOIA, we are prohibited from furnishing Form 3050, "Certification of Lack of Record".

Should you have any questions concerning this correspondence, you may contact Disclosure Specialist, Teresa Caban, ID#:77-01977, by calling (408) 817-6730, or by writing to: Internal Revenue Service, Disclosure Office 14, 1301 Clay St., Suite 840S, Oakland, CA 94612. Please refer to case number 14-2007-01050.

Sincerely,

Teresa Caban
Disclosure Specialist
Disclosure Office 14

Enclosures

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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

March 6, 2007

Paul J. Sholtz
500 West Middlefield Road, #99
Mountain View, CA 94043

Dear Mr. Paul Sholtz:

This is in response to your Freedom of Information Act (FOIA) request dated February 23, 2007, and received in our office on February 26, 2007. We have enclosed a copy of your request for your reference.

Item 5: With regard to your request for a copy of Non-Master File and Comments Field maintained in a system of records known as the Integrated Data Retrieval System /IRS 34.018 pertaining to Paul J. Sholtz, account number 377-76-2915 for tax year 2001. Please be advised that the Non Master File (NMF) is not maintained in the System of Records listed in your request. The correct System of Records is Automated Non-Master File (ANMF)/IRS 22.060.

We researched the NMF database and found no records, open or closed, pertaining to Paul J. Sholtz, account number 377-76-2915 for tax year 2001. The enclose Notice 393 explains your appeal rights.

Item 6: Please be advised that Form 2866, Certificate of Official Record, is not used to certify documents in response to Freedom of Information Act requests. It should be noted that certification merely certifies that the document is a true copy of a document in Internal Revenue Service records. It does not speak to the accuracy or validity of the contents of the document. Please be advised that under the FOIA, we are prohibited from furnishing Form 3050, "Certification of Lack of Record".

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

P3

SMALL BUSINESS/SELF-EMPLOYED DIVISION

April 6, 2007

Paul J. Sholtz
500 West Middlefield Road, #99
Mountain View, CA 94043

Dear Mr. Paul Sholtz:

This is in response to your Freedom of Information Act (FOIA) request dated March 9, 2007, and received in our office on March 12, 2007. We have enclosed a copy of your request for your reference.

Item 6: Your request asks for Form 5734, Non-Master File Assessment voucher, pertaining to Paul J. Sholtz, account number 377-76-2915 for tax year 2001. We found no documents responsive to your request since no non-master file assessments have been made to your tax account for 2003.

Item 7: Your request asks for assessment certificates pertaining to Paul J. Sholtz, account number 377-76-2915 for tax year 2001. You have requested assessment certificate documents in another request dated March 6, 2007. To the extent that responsive documents exist, they will be provided in the response for related case number 14-2007-01200.

The enclose Notice 393 explains your appeal rights.

Please be advised that Form 2866, Certificate of Official Record, is not used to certify documents in response to Freedom of Information Act requests. It should be noted that certification merely certifies that the document is a true copy of a document in Internal Revenue Service records. It does not speak to the accuracy or validity of the contents of the document. Please be advised that under the FOIA, we are prohibited from furnishing Form 3050, "Certification of Lack of Record".

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

P4

SMALL BUSINESS/SELF-EMPLOYED DIVISION

April 9, 2007

Paul J. Sholtz
500 West Middlefield Road, #99
Mountain View, CA 94043

Dear Mr. Paul Sholtz:

This is in response to your Freedom of Information Act (FOIA) request dated March 9, 2007, and received in our office on March 12, 2007. We have enclosed a copy of your request for your reference.

Item 5: With regard to your request for a copy of Non-Master File and Comments Field maintained in a system of records known as Automated Non-Master File (ANMF)/IRS 22.060 pertaining to Paul J. Sholtz, account number 377-76-2915 for tax years 2002, 2003, 2004, 2005, and 2006. We researched the NMF database and found no records, open or closed, pertaining to your request. The enclose Notice 393 explains your appeal rights.

Should you have any questions concerning this correspondence, please contact Disclosure Specialist, Teresa Caban, ID#:77-01977, by calling (408) 817-6730, or by writing to: Internal Revenue Service, Disclosure Office 14, 1301 Clay Street, Suite 840S, Oakland, CA 94612. Please refer to case number 14-2007-01232.

Sincerely,

Teresa Caban

Teresa Caban
Disclosure Specialist
Disclosure Office 14

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

P 5

May 8, 2007

Paul J. Sholtz
500 West Middlefield Road #99
Mountain View, CA 94043

Dear Mr. Paul Sholtz:

This is in response to your Freedom of Information Act (FOIA) request dated April 9, 2007, and received in our office on April 10, 2007. We have enclosed a copy of your request for your reference.

Item 5: Your request asks for a copy of RACS 006 (Summary Record of Assessment) pertaining to Paul Sholtz, account number 377-76-2915 for tax years 2002, 2003, 2004, 2005, and 2006. To the extent that the Summary Record of Assessment (SRA), RACS 006 Report (otherwise known as Form 23C) exists for tax year 2002, it will be provided in the response for case 14-2007-01317. We found no documents responsive to your request for tax years 2003, 2004, 2005, and 2006.

The enclosed Notice 393 explains your appeal rights.

Should you have any questions concerning this correspondence, please contact Disclosure Specialist, Teresa Caban, ID#:77-01977, by calling (408) 817-6730 or by writing to: Internal Revenue Service, Disclosure Office 14, 1301 Clay Street, Suite 840S, Oakland, CA 94612. Please refer to case number 14-2007-01515.

Sincerely,

Teresa Caban
Disclosure Specialist
Disclosure Office 14

Enclosures

; HOLT
TRO STREET, #120-485
N VIEW, CA 94041

RECEIVED
08 APR 25 PM 4:30
RICHARD W. WIEKING CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA.

U.S. MARSHALS SERVICE
APR 25 2008

JUDGE JAMES WARE
c/o CLERK OF COURT
US DISTRICT COURT
280 ~~N.~~ S. FIRST STREET,
SAN JOSE, CA 95113